

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA
Minute Entry

Hearing Information:

Debtor: SUSAN SIMPSON
Case Number: 2:20-BK-02088-EPB Chapter: 13
Date / Time / Room: WEDNESDAY, JANUARY 27, 2021 10:30 AM TELEPHONIC HRGS
Bankruptcy Judge: EDDWARD P. BALLINGER JR.
Courtroom Clerk: ANNETTE FRANCHELLO
Reporter / ECR: N/A

Matters:

- 1) CONTINUED HEARING ON NOTICE OF NON-COMPLIANCE AND MOTION FOR ENTRY OF ORDER GRANTING STAY RELIEF FILED BY NEW HORIZONS ROTH 401K PROFIT SHARING PLAN, BRAD GILBERTSON AS TRUSTEE
R / M #: 108 / 0
- 2) ORDER TO SHOW CAUSE AS TO WHY THIS CASE SHOULD NOT BE DISMISSED
R / M #: 0 / 0
- 3) EXPEDITED HEARING ON MOTION TO LIFT AUTOMATIC BANKRUPTCY STAY OR REQUEST FOR ADEQUATE PROTECTION FILED BY NEW HORIZONS ROTH 401K PROFIT SHARING PLAN, BRAD GILBERTSON AS TRUSTEE
R / M #: 40 / 0
- 4) EXPEDITED HEARING ON MOTION TO DISMISS CASE OR ALTERNATIVELY FOR ENTRY OF ORDER GRANTING STAY RELIEF FILED BY NEW HORIZONS ROTH 401K PROFIT SHARING PLAN, BRAD GILBERTSON AS TRUSTEE
R / M #: 111 / 0

Appearances:

GARY R. STICKELL, ATTORNEY FOR SUSAN SIMPSON
SUSAN SIMPSON, DEBTOR
ROSS M MUMME, ATTORNEY FOR EDWARD J. MANEY
DEAN O'CONNOR, ATTORNEY FOR NEW HORIZONS 401K PROFIT SHARING PLAN

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(continue)... 2:20-BK-02088-EPB

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Proceedings:

ITEMS #1 - #4

Mr. Stickell notes that he provided the Court with a status report. He states that Debtor has made the two payments to Chase and has provided proof to the Trustee and Mr. O'Connor. He further states that the Debtor is willing to begin conduit payments starting with the February payment. He explains that a fourth amended plan is not needed but instead will proceed with confirmation of the third amended plan. He will have a revised stipulation on the lift stay to Mr. O'Connor today. He then answers the Court's questions regarding Debtor's income.

The Court questions whether the Trustee has any concerns now that there is an agreement as to conduit payments and revised stipulation on lift stay.

Mr. Mumme states that the only remaining item is New Horizons' objection to the plan which will need to be resolved or set for hearing. As far as payments, Debtor is current and can afford the ongoing plan payments based on her Declaration and Schedule I.

Mr. O'Connor states that he would like a hearing on his objection to the plan. He explains that the issue is Debtor not providing documentation that she is paying Chase. He wants to move forward with his motion to dismiss and take a 2004 exam to resolve whether the plan is feasible. He states that he was not able to sign off on the stipulation for stay relief because Mr. Stickell also wanted him to sign off on the stipulated order of confirmation and agree Debtor was current with Chase. He then answers the Court's questions.

The Court notes that the conduit payments resolve the plan objection.

Mr. O'Connor would like a hearing as to feasibility of the plan. He has not requested a 2004 exam yet and will need to do so before the hearing. He agrees to do so within 30 days.

COURT: IT IS ORDERED discovery on Mr. O'Connor's objection to the plan based on feasibility shall be completed by February 26, 2021. The parties shall file a joint pretrial statement consistent with this Court's procedures on or before March 11, 2021. **IT IS FURTHER ORDERED** setting a pre-trial conference for March 16, 2021 at 10:00 a.m.